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October 9, 2001

EXECUTIVE SECRETARY

Mr. David Waddell  
Executive Director  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

Re: *Generic Docket on Performance Measurements*  
Docket No. 01-00193

Dear Mr. Waddell:

Enclosed please find an original and thirteen (13) copies of the Post-Hearing Brief of WorldCom Concerning Special Access Metrics which we would appreciate your filing on behalf of WorldCom, Inc. in the above-referenced docket.

Thank you for your assistance in this matter.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By   
Jon E. Hastings

JEH/th

Enclosures

cc: Certificate of Service  
Susan Berlin, Esq.  
Dulaney L. O'Roark, III, Esq.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

In re:	)	
GENERIC DOCKET ON	)	Docket No. 01-00193
PERFORMANCE MEASUREMENTS	)	

**POST-HEARING BRIEF OF WORLD COM  
CONCERNING SPECIAL ACCESS METRICS**

Brooks Fiber Communications of Tennessee, MCI metro Access Transmission Services, LLC and MCI WorldCom Communications, Inc., (collectively, "WorldCom") hereby submit their Post-Hearing Brief Concerning Special Access Metrics.

Special access circuits provide dedicated connections between customer premises and service providers using local loops, interoffice transport and multiplexing. (Furbish Rebuttal, p. 3.) These circuits are used by businesses, government and carriers to obtain access to BellSouth's network at connection speeds ranging from voice grade to large capacity SONET services. (*Id.*) Competitive access providers ("CAPs") have used special access circuits for years to provide customers with access to the long distance network. And carriers with significant long distance operations like WorldCom must order dedicated facilities from BellSouth's special access tariffs to link their customers to their long distance networks. As a result, the ordering process for special access circuits – the access service request process – is mature, stable and electronic. (*Id.* at 2, n.1; Kagele Testimony at 3.) More recently, CLECs have used special access circuits to provide local service. A special access circuit is functionally equivalent to an enhanced extended link ("EEL"), sometimes referred to as a DS1 loop-transport combination ("DS1 combo"). (Furbish Rebuttal at 2, n.1; Kagele Testimony at 5.) But when a CLEC

wishes to use the local service request process to order an EEL, it must use a relatively new ordering interface – the local service request process -- that is still manual for EELs. (Furbish Rebuttal at 2, n.1.) As a result, many CLECs have chosen to use special access circuits rather than EELs to provide local service. (Kagele Testimony at 3.)

When WorldCom determines how best to serve a particular customer, it first determines whether it can do so using its own network. If such facilities are not in place, WorldCom attempts to find facilities owned by CAPs, which tend to be less expensive than BellSouth and typically have service organizations that are more flexible. Because neither WorldCom nor CAPs have ubiquitous networks, as BellSouth does, WorldCom also must rely on BellSouth for the facilities necessary to provide service to its customers. (Furbish Rebuttal at 3-4.) In short, BellSouth often will be the only game in town or, at the very least, the dominant provider of access services. (Kagele Testimony at 3.) If BellSouth abuses its dominant position and provides poor service, carriers relying on BellSouth can be irreparably harmed because CLECs' end user customers ordering high capacity services do not tolerate unanticipated delays or problems with service. (Furbish Rebuttal at 4; Kagele Testimony at 3.)

For local service, the potential for discrimination is real today because CLECs compete with BellSouth for local customers that use EELs or the equivalent BellSouth service. That potential is equally present for access service, and will only become more pronounced once BellSouth receives authority to offer in-region long distance services. For example, in New York, where Verizon has been granted Section 271 authority, carriers have experienced a large number of systemic problems with Verizon's delivery of tariff-based Special Services. (Kagele Testimony at 6.) Once Verizon became a

competitor in the long distance market, it no longer had the incentive to provide the same level of service to long distance companies seeking access to Verizon's network, and that lack of incentive has been reflected in its performance. Concern about access service levels has prompted the New York Public Service Commission and other commissions to investigate ILECs' provision of special access services and how ILECs' performance should be measured. (Furbish Rebuttal at 5; Kagele Testimony at 6.)

The Authority has jurisdiction under state law to oversee BellSouth's access performance. *See* Tenn. Code Ann. § 65-4-104 (Authority has "general supervisory and regulatory power, jurisdiction, and control over all public utilities"); Tenn. Code Ann. § 65-4-117 (3) (empowering Authority to fix just and reasonable standards to be followed by public utilities); Tenn. Code Ann. § 65-4-117 (4) (empowering the Authority to fix standards for the measurement of public utilities' service quality). This jurisdiction is concurrent with the jurisdiction of the FCC under federal law. The FCC has long made clear that it will consider as part of the public interest test discriminatory or anticompetitive conduct by a Bell Operating Company ("BOC"), as well as a BOC's failure to comply with state and federal regulations.<sup>1</sup> Failure to provide nondiscriminatory availability to access services to competitors in violation of sections 201 or 202 of the Telecommunications Act ("Act"), or in violation of state or federal tariff provisions, obviously is relevant to section 271 compliance (including post-entry compliance). Therefore, alleged discriminatory conduct should be addressed by the FCC as part of its section 271 authority to address backsliding from arrangements and

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<sup>1</sup> *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934 to Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137, Memorandum Opinion and Order ¶ 397 (rel. Aug. 19, 1997).

practices necessary to promote competition in all telecommunications markets. The FCC can and should exercise this role concurrent with this Authority.

The FCC's *Texas 271 Order* reinforces these points. Paragraph 425 of the order states in relevant part:

Moreover, the [Texas] plan is not static, and we recognize that the Texas Commission presently is considering modifying existing measurements, and adding new measurements based on input from both SWBT and competitive LECs. For example, SWBT and competitive LECs are developing additional performance measurements for provision of DSL-related services. In addition, in response to competitive LEC concerns that aspects of interconnection trunking measurements give an incomplete portrayal of SWBT's actual performance, the Texas Commission has implemented a new measurement, PM 73.1 (concerning missed due dates), and is considering modifications to PM 78 (concerning average installation intervals) during its April 2000 performance review. This continuing ability of the measurements to evolve is an important feature because it allows the Plan to reflect changes in the telecommunications industry and in the Texas market.<sup>2</sup>

(Emphasis added, footnotes omitted.) Accordingly, the Authority has jurisdiction to adopt metrics "to reflect changes in the telecommunications industry," which includes measurement of BellSouth's special access performance. This jurisdiction is particularly relevant now that BellSouth's has initiated the process for obtaining authority to offer in-region long distance authority in Tennessee.

Despite its enviable position in the access service market, BellSouth is subject to relatively little regulatory scrutiny. Whether a carrier is ordering special access circuits for interstate toll, intrastate toll, local service or some combination of the three, few metrics exist that gauge BellSouth's performance. (T.25-26; Kagele Testimony at 4.)

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<sup>2</sup> *Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a/ Southwestern Bell Long Distance Pursuant to Sections 271 of the Telecommunications Act of 1996 To Provide In-Region, interLATA Services in Texas*, CC Docket No. 00-65 Memorandum Opinion and Order ¶ 425.

Accordingly, WorldCom has proposed the following, limited set of metrics for BellSouth's special access services:

Ordering

- FOC Receipt
- FOC Receipt Past Due
- Offered Versus Requested Due Date

Provisioning

- On Time Performance to FOC Due Date
- Days Late
- Average Intervals – Requested/Offered/Installation
- Past Due Circuits
- New Installation Trouble Report Rate

Maintenance and Repair

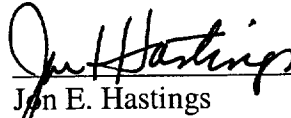
- Failure Rate
- Mean Time to Restore
- Repeat Trouble Report Rate

WorldCom submits that these metrics, described in detail in Exhibit KF-2 to the Rebuttal Testimony of Karen Furbish, will enable the Authority to evaluate adequately BellSouth's performance both now and after it is eventually given authority to offer in-region long distance authority in Tennessee. WorldCom therefore respectfully requests that these metrics be adopted.<sup>3</sup>

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<sup>3</sup> WorldCom does not oppose the additional metrics proposed by Time Warner Telecom of the Mid-South, L.P.

Respectfully submitted, this 9<sup>th</sup> day of October, 2001.



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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 9<sup>th</sup> day of October, 2001.

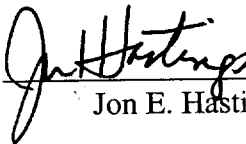
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